

ROLL OUT THE BARRELS... but not onto the centerline!

As one travels throughout the State, it seems that more and more towns are reverting to a traffic control practice which seems innocent, but can create some major headaches AND maybe not solve the problem! The use of orange barrels or cones on the centerline or in a crosswalk to slow motorists down is NOT a recommended practice, especially when a metal sign (or two), sandbags, or even cinder blocks are placed on the device.

Whether it's a school area, a downtown, or other problem area, these nonstandard devices should NOT be used for various reasons. Consider the consequences when (not if) cars and trucks hit them, the driver damages his car and wants the town to pay for repairs; or when a barrel or cone is hit, becomes airborne, and hits a pedestrian; or when the metal sign on the flying barrel slices the leg or arm of a pedestrian; or when the device is knocked over and creates a hazard in the road to oncoming traffic, and on and on.

In today's world, it does not take much for a lawyer to become involved in the case, especially if there is some potential liability. (Anyone heard any ads on the radio or TV lately seeking clients injured in recent accidents?)

As important as pedestrian safety must be, all municipalities MUST conform to the standards of the Manual on Uniform Traffic Control Devices (MUTCD). This is THE national standard for all public roads in the US and whether you're the State, a County, or a town or city, you must follow these national minimum standards. The Maine DOT adopted it in 1972 as its standard for all traffic control issues and communities are required by statute to conform to it.

Because the MUTCD is the nationally recognized standard in all States, the legal profession uses it often in lawsuits against government agencies, contractors, and utilities. The Manual states that nonstandard procedures and devices cause confusion among pedestrians and vehicle operators, prompt wrong decisions, and can contribute to accidents. The orange cones and barrels are considered nonstandard because they're the wrong color (orange means work zones), they are being used in a nonuniform method, and if hit, they can be hazards to vehicles and pedestrians. Just because a vendor sells them and they look official, that doesn't make them a standard device.

While these devices may slow traffic through an area most of the time, when a vehicle is damaged or a pedestrian is hurt they become a potential problem. Is it worth it to risk this type of liability?? There will always be speeding traffic, jay walkers, and imprudent or inattentive drivers. Is a nonstandard traffic control device really going to solve the problem? Probably not. As a municipality, you MUST follow the MUTCD and do everything you can to follow the standard procedures. You can maintain painted sidewalks (with a standard design), use larger or brighter pedestrian signs, even an overhead warning sign, and ENFORCE the speed limit more frequently. Those activities may minimize driver/pedestrian conflicts.

If you decide to ignore this advice and install these traffic cones or barrels anyway, please consider the type of roadway, the traffic volume, and the real problem. Do not weigh down the device with a sandbag or rock or use metal signs which will cut up people and damage vehicles. Even then, keep your fingers crossed and hope your checkbook can handle the potential damage and/or injury claims.

For more information on the MUTCD or this subject, please call Pete at the Center.